## IN THE UNITED STATES DISTRICT COURT

## FOR THE EASTERN DISTRICT OF VIRGINIA

#### **Richmond Division**

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	Criminal No. 3:13-CR-022
DAVID EDWARD SLEEZER,	)	
	)	
Defendant.	)	
	)	

# DEFENDANT SLEEZER'S MEMORANDUM OF LAW IN SUPPORT OF MOTION TO SEAL

COMES NOW, the defendant, DAVID EDWARD SLEEZER, by counsel, and in support of his Motion to Seal, by counsel, and requests that this Court seal an exhibit to the defendant's Sentencing Position for the following reasons:

In *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597, 98 S. Ct. 1306, 1312, 55 L. Ed. 2d 570, 580 (1978), the Supreme Court recognized a common law right to inspect and copy judicial records and documents. This right to access to court records is not absolute, however." *In re: The Knight Publishing Company v. Observer*, 743 F.2d 231, 234 (1984). A court "has supervisory power over its own records, and may, in its discretion, seal documents if the public's right of access is outweighed by competing interests." *Id.* at 235. When asked to seal court documents, the court must follow specific procedures.

According to Fourth Circuit case law, before a court may seal any court documents the court must (1) provide public notice of the request to seal and allow interested parties a reasonable opportunity to object, (2) consider less drastic alternatives to sealing the documents,

and (3) provide specific reasons and factual findings supporting its decision to seal and for rejecting the alternatives. *Ashcroft v. Conoco*, 218 F.3d 288, 302 (4th Cir. 2000).

The exhibit at issue in this motion is a Psychosexual Evaluation report performed on the defendant by Evan S. Nelson, Ph.D., ABPP, CSOTP, and it contains confidential, sensitive, and personal information about him and his family. Placing this exhibit UNDER SEAL will protect the defendant's and his family's privacy, and any and all medical information as protected by the Health Insurance Privacy and Portability Act (HIPPA).

For the foregoing reasons, the defendant requests that this Court grant his Motion to Seal his Psychosexual Report which is an exhibit to the defendant's Sentencing Position.

Respectfully Submitted, **DAVID EDWARD SLEEZER** 

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# **CERTIFICATE**

I hereby certify that on this <u>8th</u> day of July, 2013, I electronically filed the foregoing with the Clerk of Court using CM/ECF system, which will send a notification of such filing (NEF) to the following:

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